

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

<b>William Ney, Individually and as Executor of the Estate of Loretta Ney,</b>	<b>Civil No. 3:16MC136-RJC-DSC</b>
	)
	)
<b>Plaintiff,</b>	<b>ORDER</b>
	)
	)
<b>vs.</b>	)
	)
<b>Owens-Illinois, Inc., et al.,</b>	)
	)
<b>Defendants.</b>	)
	)
	)

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**THIS MATTER** comes before the Court upon the Defendant Owens-Illinois, Inc.'s Motion to Enforce North Carolina Baptist Hospital's ("Hospital") Compliance with Subpoena. The Hospital objected to the Subpoena for a number of reasons, one of which is a hospital policy prohibiting the removal of original tangible things from the Hospital. The Hospital did not object to inspection of appropriate things under reasonable circumstances and procedures.

Plaintiff, who purports to serve as Executor of the Estate of Loretta Ney, executed an Authorization for Use or Disclosure of Protected Health Information, which would apply to the specified things listed below in this Order. Plaintiff has filed no objection to the Subpoena or the Motion to Enforce Compliance with Subpoena.

After communications between counsel for Owens-Illinois and the Hospital and based upon reasons set forth in the Memorandum in Support of the Motion to Enforce:

**IT IS ORDERED** that North Carolina Baptist Hospital shall produce within ten days of the date of this Order to counsel for Owens-Illinois, Tracy E. Tomlin, Esquire, Nelson Mullins Riley & Scarborough, LLP, or his representative, the following:

All original lung pathology slides stained with H&E, immunohistochemical stains, iron stained slides, blocks and all lung cytology, including washings (bronchial lavage), brushings, cell blocks, cytospins and corresponding reports and all autopsy slides, autopsy blocks and autopsy reports (include histological findings & gross examinations).

Production shall be by personal delivery at the Hospital.

**IT IS FURTHER ORDERED** that upon completion of the desired testing by the experts of Owens-Illinois, the unused and remaining materials shall be returned by personal delivery to the Hospital by counsel or his representative.

**SO ORDERED.**

Signed: August 22, 2016



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David S. Cayer  
United States Magistrate Judge

